

The Senate then adjourned until 9 o'clock A.M. to-morrow.

Thursday, November 3, 1864
9 o'clock A.M.

Senate met, roll called, quorum present. The Journal of yesterday was read and adopted.

Mr. Harcourt, Chairman of the Judiciary Committee recommended the indefinite postponement of a bill to regulate publication notices in certain cases. Also recommended the passage of a substitute for a bill to authorize the Superintendent of the Penitentiary to receive military convicts. Also recommended the passage of a bill to amend Article 754 of the Code of Criminal Procedure. Also the following report:

To the Honorable F. S. Stockdale, President of the Senate:

The Judiciary Committee has duly considered a bill to be entitled an act to amend Article 140 of the Code of Criminal Procedure. The amendment proposed is to authorize slaves to be relieved from illegal restraint or confinement by writ of habeas corpus.

A majority of the Committee are of the opinion that such alteration of the law without restricting its operation to criminal offenses or restraint under legal process would be injurious and might seriously embarrass the military operations of the country when slaves have been impressed to work on railroads, fortifications, etc. I am directed by a majority of the Committee to report the bill back to the Senate and recommend its indefinite postponement.

John T. Harcourt, Chairman

Mr. Lea, Chairman of the Committee on Finance, made the following reports:

To the Honorable F. S. Stockdale, President of the Senate:

The Committee on Finance, to which was referred a resolution to inquire into the expediency of providing for improved execution of the revenue laws and to examine into the propriety of a general reform of the laws regulating the collection of taxes, has considered the subject and reports as follows:

The Committee does not question the propriety of a general reform of the laws regulating the collection of taxes, but repeated experiments have shown the great difficulty of accomplishing such a reform, and such a change

is manifestly impracticable during the present hasty session of the Legislature.

But the Committee realizes the necessity for employing the best practicable means of promoting the execution of the revenue laws, and considers the suggestion of itinerant inspecting agents as well worthy of a fair experiment. To this end the Committee reports a bill and recommends its passage.

Pryor Lea, Chairman

To the Honorable F. S. Stockdale, President of the Senate:

The Committee on Finance, to which was referred a resolution of inquiry into the expediency of discontinuing the sale of State Bonds, has considered the subject and now reports as follows:

As to the eight per cent Bonds sustained by an irrepealable specie tax when sold, the Committee has no hesitation in expressing the opinion that the unsold Bonds should not be disposed of without realizing at least as much in value of specie as eighty cents on the dollar.

And as to the six and seven per cent Bonds authorized by the Legislature at its regular session of last year, the Committee thinks that the laws therefore should be repealed or suspended, except as to contracts, which have been made by the Governor for some portion of the seven per cent Bonds, and which contracts have been executed in full or have been partly executed and are in progress of complete fulfillment and shall be entirely performed so as to require the corresponding issuance of the bonds to persons acting in good faith to the State.

The Committee does not deem it necessary to give the reasons in detail for the foregoing opinions. It were enough to know that the State is not in any emergency which can justify the sale of its first class Bonds at any considerable discount and also to know that the policy of the Legislature in providing for the other Bonds has not been executed as contemplated, and could not now be prosecuted with any reasonable prospect of success or advantage.

Under such circumstances, the Committee reports three bills as necessary for attaining the indicated purpose of relief, as parts of a policy which now seem to be indispensable for placing the State in a proper condition for using its credit on any occasion that may require it. This

policy is to promptly and thoroughly use the State's available means to liquidate its liabilities, whether present or prospective, so as to inspire confidence in the disposition, forecast, and steadiness of Legislative action, without which the State cannot obtain credit on any advantageous terms, even in the greatest emergency, and with which the State can have desirable credit at any time.

Respectfully submitted,
Pryor Lea, Chairman

Two bills included with the report of the Finance Committee are:

A bill to be entitled an act to repeal an act to raise two million dollars or so much thereof as may be necessary by the sale of cotton bonds, to provide for the defense of the State and to repel invasion, and for the purchase of machinery for manufacturing purposes, approved December 16, 1863.

Be it enacted by the Legislature of the State of Texas that the act mentioned in the foregoing caption is hereby repealed, and that this act shall be in force from its passage.

A bill to be entitled an act to suspend in part an act providing for the purchase of cotton by the State to meet the payment of the cotton bonds to be issued in pursuance of the provisions of an act to raise two million dollars or so much thereof as may be necessary by the sale of cotton bonds, to provide for the defense of the State, and to repel invasion, and for the purchase of machinery for manufacturing purposes, approved December 10, 1863.

Be it enacted by the Legislature of the State of Texas as follows:

Section 1. The act above mentioned in the caption, as approved December 16, 1863, is hereby suspended and shall not be executed, except as to contracts which have been made by the Governor, and which have been fully executed or shall hereafter be fully executed, being now in actual progress of fulfillment, so as to require the corresponding issuance and delivery of the Bonds to some person or persons who shall have fairly made and performed his or their part of a contract without any fraud against the State.

Section 2. This act shall be in force from its passage. To the Honorable F. S. Stockdale, President of the Senate:

The Committee on Finance, to which was referred a

joint resolution construing an act to require the financial agent of the State Penitentiary to settle his accounts quarterly with the State Comptroller, approved January 2, 1862, has considered the subject and reports the resolution with a recommendation that it be adopted.

Pryor Lea, Chairman

Mr. Ford introduced a bill to repeal an act to authorize the Governor to appoint certain officers to represent the interest of the State and of the citizens and soldiers of the State at the Headquarters of the Trans-Mississippi Department and at the Headquarters of the District of Texas, New Mexico, and Arizona, approved May 28, 1864. Read 1st and 2nd times and referred to Committee on State Affairs.

Mr. Knox introduced a bill for the forfeiture of the estates and citizenship of persons, avoiding participation in the existing war for independence either by abandonment of the country, desertion from the Army, or evading their enrollment for military service. Read 1st and 2nd times and referred to Judiciary Committee.

Mr. White introduced a joint resolution in regard to the impressment of beef cattle. Read 1st and 2nd times and referred to Committee on State Affairs.

Mr. Ford offered the following: *Resolved*, That the Committee on Military Affairs be instructed to inquire whether it is necessary to continue the office of Adjutant and Inspector General, and report by bill or otherwise. Mr. Harcourt proposed to amend the resolution so as to extend the inquiry to the office of Assistant Quartermaster General and the six Brigadier Generals of State Troops. Adopted, and resolution adopted.

The report of Committee on Confederate Relations on resolution relative to providing a special currency for payment on our soldiers recommending its indefinite postponement, was read and adopted.

The report of Judiciary Committee on a bill to authorize the Superintendent of the Penitentiary to receive and employ military convicts was taken up, substitute recommended, adopted, and ordered to be engrossed. Rule suspended. Read 3rd time and passed.

The report of the Finance Committee recommending substitute for a bill to amend an act to prescribe what

kinds of funds may be received for certain public dues, approved January 11, 1862. Read and the subject referred to the Judiciary Committee.

Mr. Ford from Judiciary Committee reported a bill to define and fix the time of holding the District Courts in 2nd Judicial District, and recommended its passage with the following amendment: Strike out "one" and insert "two." Strike out "9th" and insert "10th."

The Senate then went into Committee of the Whole on the resolutions concerning peace reconstruction and independence, Mr. Durant in the Chair. After some time spent therein, the Committee rose and reported no progress and asked to be discharged. Report adopted.

The question being on the adoption of the substitute offered by Mr. Wootten, Mr. Shepard moved to lay the substitute on the table. The yeas and nays were as follows:

Yeas—Messrs. Charlton, Davis, Durant, Ford, Guinn, Harcourt, Hartley, Haskell, Hord, Kinsey, Knox, Moore of Davis, Parsons, and Shepard—14.

Nays—Messrs. Dickson, Holland, Jowers, Lea, Maxey, Throckmorton, Wootten, and White—8.

Mr. Throckmorton then offered a substitute which was laid on the table on Mr. Shepard's motion by the following vote:

Yeas—Messrs. Burney, Charlton, Durant, Ford, Guinn, Harcourt, Hartley, Haskell, Hord, Kinsey, Knox, Moore of Davis, Parsons, and Shepard—14.

Nays—Messrs. Davis, Dickson, Holland, Jowers, Lea, Maxey, Throckmorton, Wootten, and White—9.

Mr. Jowers then offered the following amendment: That nothing in these resolutions shall be so construed as to deny that "all political power is inherent in the people and all free governments are founded in their authority and instituted for their benefit, and they have at all times the unalienable right to alter, reform, or abolish their form of government in such manner as they may think expedient."

Laid on table on Mr. Shepard's motion by the following vote:

Yeas—Messrs. Charlton, Durant, Ford, Guinn, Harcourt, Hartley, Haskell, Hord, Knox, Moore of Davis, Parsons, Shepard, and White—12.

Nays—Messrs. Burney, Davis, Dickson, Holland, Jow-



Rufus K. Hartley
Senator from Galveston

Source: Ocie Speer, *Texas Jurists*
(Austin [n.p.], 1936), 630.

ers, Kinsey, Lea, Maxey, Throckmorton, and Wootten—10.

Mr. Hord then moved to amend the resolutions as follows: In preamble, lines 2 and 3 strike out "those of this" and insert "these of the." In 5th resolution in lines 9 and 10, strike out all after "used" down to "exchange." Line 16, strike out "submitted" and insert "subjected;" 4th resolution strike out "alliance" and insert "reunion." Strike out after "magistrate" and "thus" and insert "with the purpose that he should destroy our liberties in disregard of the constitution which he has sworn to support." Strike out 'not improbable' and insert "possible." Adopted.

Mr. Kinsey then moved to strike out "notice" in 1st resolution and insert "entertained." Carried.

Mr. Hartley moved to amend by striking out all in Resolution 2 between "policy" and "to." Carried. The resolutions were then ordered to be engrossed. Rule suspended. Read 3rd time and passed.

Mr. Harcourt then offered the following resolution which was adopted. *Resolved*, That 2000 copies of the joint resolutions on peace, reconstruction and independence be printed for the use of the Senate.

Mr. Ford from the Judiciary Committee reported a substitute for a bill to amend Article 43 of *Oldham and White's Digest*.

Mr. Hartley moved to reconsider the vote passing a bill relative to the railroad companies paying their indebtedness to the State in Treasury Warrants. The bill having been reported to the House, the Secretary was instructed to ask its return.

Mr. White introduced a bill to amend Article 608, *Oldham and White's Digest*. Read 1st and 2nd times and referred to Judiciary Committee.

The Senate then adjourned until 3 o'clock P.M.

3 o'clock P.M.

Senate met, roll called, quorum present.

The following communication from the Governor was read and referred to Finance Committee.¹¹

Joint resolutions of thanks to the 9th Regiment of Texas Infantry, with majority and minority reports from Committee on State Affairs. The majority report recom-

¹¹This resolution cannot be located in the Archives.

mending amendments laid on table, minority report recommending amendments. Adopted.

Mr. White offered the following amendment: Insert "also the 2nd Regiment of Texas Volunteers commanded by Colonel Moore at the Battle of Shiloh." Mr. Harcourt moved to refer the subject to the Committee on Military Affairs, with instructions to frame a general bill which shall include all Texas regiments deserving a compliment. Carried.

The report of Committee on Confederate Relations recommending the indefinite postponement of joint resolutions recommending extension of the conscript laws was read and postponed by a motion to adjourn, which was withdrawn when a message from the House informed the Senate of the passage of the following bills.

A bill for relief of heirs of John B. H. Jones. Read 1st and 2nd times and referred to Committee on State Affairs.

A bill to authorize the Comptroller to audit and settle the account of L. P. Strong for subsidizing the Tonkawa Indians. Read 1st and 2nd times and referred to Committee on Claims and Accounts.

A bill supplementary to an amendatory of an act to establish a Code of Criminal Procedure, approved August 26, 1856. Read 1st and 2nd times and referred to Committee on Judiciary.

A bill to allow assessors and collectors and chief justices to purchase stationery from the Comptroller's office. Read 1st and 2nd times and referred to Committee on State Affairs.

A bill amendatory of an act to incorporate the Galveston and Houston Junction Railroad Company, approved April 8, 1861, and to amend said act, approved February 25, 1863. Read 1st and 2nd times and referred to Committee on Internal Improvements.

A bill to insure the correct returns of assessment rolls to the Comptroller's Office. Read 1st and 2nd times and referred to Committee on Finance.

A bill for the relief of Luke A. Falvell. Read 1st and 2nd times and referred to Committee on Claims and Accounts.

A bill to incorporate the Southern Minerva Institute. Read 1st and 2nd times and referred to Committee on Education.

Senate's bill to amend an act to encourage the erection of certain machinery by donations of land and otherwise, approved December 15, 1863.

A House bill to amend 4th Section of an act to organize the Supreme Court of the State of Texas, approved May 12, 1846. Read 1st and 2nd times and referred to Judiciary Committee.

The Committee on Enrolled Bills made the following report:

Honorable F. S. Stockdale, President of the Senate:

The Committee on Enrolled Bills have examined and find correctly enrolled the following bills, viz,

An act to change the name of Charles C. Ten Eyck to that of Charles Thomas Pelham.

An Act for the Relief of Stephen W. Pipkin and a joint resolution requesting the Commanding General of the Trans-Mississippi Department to grant permanent details to certain persons therein named, all of which being properly signed were this day presented to the Governor for his approval.

D. C. Dickson

The Senate then adjourned until 9 o'clock A.M. tomorrow.

Friday, November 4, 1864
9 o'clock A.M.

Senate met, roll called, quorum present. The Journal of yesterday was read and adopted.

Mr. Harcourt, Chairman of the Committee on the Judiciary, recommended the passage of the following bills:

A bill to amend the 4th section of an act to organize the Supreme Court of the State of Texas, approved May 12, 1846.

A bill to amend an act to suspend all laws for the collection of debts, etc., approved December 2, 1863.

A bill to relieve J. H. Benton, S. R. Shepherd, and S. G. Haynes from the disability of minority.

A bill to relieve Zepheniah McMillon from the disability of minority.

Also recommended the indefinite postponement of a bill to amend Article 608 of *Oldham and White's Digest*.

Also the following report: